

A R I S T O T L E

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205 Pennsylvania Avenue, S.E.
Washington, D.C. 20003

December 10, 2012

The Honorable Anthony Herman
General Counsel
Federal Election Commission
999 E Street, NW
Washington, DC 20463

Re: Response of Washington State Republican Committee to Audit Referral 2012-10

Dear Mr. Herman:

The Washington State Republican Committee (WSRP or Committee) does not contest the factual basis for this referral and accepts the Commission's conclusion on reporting of the inadvertent \$43,920 disbursement and corrective transfer raised during the audit hearing.

The Committee does wish to make three points that merit substantial mitigation of any penalty, and to express a desire to explore significant non-financial remedies, in the event that the Commission seeks a settlement with WSRP.

The public was not deprived of any substantial information regarding WSRP receipts due prior to the election.

Of the \$693,000 in receipts the audit found not reported, \$44,000 was a transfer from the Committee's state account for a disbursement fully reported on state reports. \$162,000 constituted transfers from the Republican National Committee that were timely reported on the RNC's pre-General election report, and thus was available to the public prior to the election. The remaining \$487,000 in initially unreported 2010 receipts were during the post-General reporting period, not due to be reported and made public until after the election. Thus, the public was deprived of effectively no important information about WSRP receipts that was due to be reported prior to the election.¹

¹ See FEC Audit Division Supporting Doc for Exit Conference for source of the totals presented here and subsequently.

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Most of the initially unreported disbursements were not due to be reported prior to the election.

Of the \$1.06 million in disbursements the audit found initially unreported in 2010, very nearly \$600,000 was in the post-General reporting period (beginning October 14, 2010), not due to be reported until after the election. Thus, a majority of the initially unreported disbursement activity would not have been available to the public even if all reporting had been timely.

Most of the Committee's reporting errors were due to a single, readily remediable weakness.

During the 2010 election cycle, wire and electronic transfers into and out of the Committee's accounts were handled by different methods and personnel than ordinary deposits and check disbursements. As a result, wires and other transfers were recorded inconsistently and late in the Committee's compliance and financial records. Regrettably, wires and other transfers tended to be in large amounts. Thus, a relatively small number of unrecorded transactions generated a very high dollar value of unreported activity.

Wire transfers accounted for the great majority of initially unreported receipts and disbursements. Nearly \$838,000 (over 80%) of the initially unreported disbursements involved wire transfers. Over \$619,000 of the initially unreported 2010 receipts (about 90% of the dollar value) came in the form of external or inter-account transfers.

The Committee has since revised its internal controls and compliance practices so that transfers are recorded on a daily basis, and so that both accounting and compliance personnel are notified contemporaneously of all account wires and transfers. The Committee also completes a monthly bank reconciliation to ensure that all bank activity is properly reflected on the relevant FEC report.

While the failure to timely record transfer items was obviously a significant weakness, the committee believes the fact that a relatively small number of missed items involved very large dollar values merits some mitigation of penalties, which are normally calculated on a dollar value basis.

The Committee Wishes to Discuss Non-Financial Remedies as a Significant Part of Any Settlement

Non-financial remedies are especially characteristic of the Commission's Alternative Dispute Resolution program. WSRP believes non-financial remedies might usefully be applied in the Commission's enforcement process as well. Such remedies are consistent with the FECA's directive that the Commission attempt to correct violations "by informal methods of conference, conciliation, and persuasion." 2 USC 437g(a)(4)(A)(i). In summary, WSRP would prefer to invest its limited funds in

improving its reporting processes, procedures, and performance than in paying a merely punitive financial penalty.

Specifically, WSRP is willing to provide with each report filed with the Commission information sufficient to demonstrate to the Commission that all financial activity has been reported and that the Committee's bank balances correspond to the balance shown on its FEC report.

Because there is no opportunity to communicate directly with the Commission during the enforcement process, and because conciliation agreements generated in the enforcement process typically focus on a financial penalty, WSRP asks that the Commission instruct the staff as to its willingness to explore a conciliation agreement which includes extraordinary assurances of reporting accuracy as a substantial substitute for a financial penalty.

Conclusion

The Committee acknowledges that it made significant reporting errors in the 2010 election cycle. The Committee believes, however, that the timing and nature of these errors had limited public impact, and that this fact merits substantial mitigation of any financial penalties that might otherwise apply. The Committee has invested substantially in improved compliance procedures and additional compliance resources. The Committee is willing to build on these improvements and seeks to design and implement a model FEC reporting program. In return, the Committee hopes the Commission is willing to design a remedial program that will allow the Committee to invest in further improving its reporting rather than merely paying a financial penalty for past errors.

Respectfully,

A handwritten signature in dark ink, appearing to read "David M. Mason". The signature is fluid and cursive, with the first name "David" being more prominent.

David M. Mason
Compliance Consultant to
Washington State Republican Committee

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